

# **EXHIBIT 3**

**UNITED STATES DISTRICT COURT**  
for the  
District of Delaware

VOLTERRA SEMICONDUCTOR LLC

*Plaintiff*

v.

MONOLITHIC POWER SYSTEMS, INC.

*Defendant*

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)  
)  
)  
)

Civil Action No. C.A. No. 19-2240-CFC-SRF

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To:

Jieli Li

*(Name of person to whom this subpoena is directed)*

**Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Exhibits A and B

Place: Finnegan, Henderson, Farabow, Garrett & Dunner LLP 3300 Hillview Avenue, 2nd floor Palo Alto, CA 94304-1203	Date and Time: 05/21/2021 9:00 am
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**Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: May 11, 2021

*CLERK OF COURT*

OR

*/s/Lionel Lavenue*

*Signature of Clerk or Deputy Clerk*

*Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing (*name of party*) Defendant,  
MONOLITHIC POWER SYSTEMS, INC., who issues or requests this subpoena, are:

Finnegan, Henderson, Farabow, Garrett, & Dunner LLP by Lionel Lavenue, 1875 Explorer Street, Suite 800, Reston, VA 20190-6023, lionel.lavenue@finnegan.com; (571) 203-2750

**Notice to the person who issues or requests this subpoena**

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. C.A. No. 19-2240-CFC-SRF

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for (name of individual and title, if any) \_\_\_\_\_  
on (date) \_\_\_\_\_.

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_  
on (date) \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

## Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

### (c) Place of Compliance.

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

### (d) Protecting a Person Subject to a Subpoena; Enforcement.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

#### (2) Command to Produce Materials or Permit Inspection.

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

#### (3) Quashing or Modifying a Subpoena.

**(A) When Required.** On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

### (e) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

#### (2) Claiming Privilege or Protection.

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

#### (g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

# EXHIBIT A

**EXHIBIT A**

**DEFINITIONS**

1. “And” and “or” shall be construed conjunctively or disjunctively as necessary to make the document request inclusive rather than exclusive; use of a singular noun shall be construed to include the plural noun and use of a plural noun shall be construed to include the singular noun; and the use of a verb in any tense shall be construed as the use of that verb in all other tenses whenever necessary to bring within the scope of the document request that which might otherwise be construed to be outside its scope.

2. “Any” means “any and all,” as necessary to bring within the scope of the document requests that which might otherwise be construed to be outside their scope.

3. “986 patent” shall mean U.S. Patent No. 6,362,986.

4. “408 patent” shall mean U.S. Patent No. 7,525,408.

5. “955 patent” shall mean U.S. Patent No. 7,772,955.

6. “Volterra” or “Plaintiff” shall refer to Volterra Semiconductor LLC including any affiliates, parents (including Maxim Integrated Products, Inc.), subsidiaries, departments, divisions, present and former officers, directors, trustees, employees, predecessors-in-interest, agents and/or representatives.

7. “Communicate” or “communication” means, without limitation, any manner or means of disclosure, transfer, transmission, conveyance, or exchange of information whether by written, oral, or other means (such as person-to-person, in a group, by telephone, letter, facsimile, electronic or computer mail, voicemail, telex, telecopy, or any other process, electric, electronic or otherwise).

8. “Concerning,” “concern,” “reflect,” “reflecting,” “related,” “relating,” “relate,” “refer,” or “referring” and other variations thereof, as used herein shall be construed in their broadest possible sense, and mean without limitation and whether in whole or in part: referring to, constituting, bearing upon, commenting upon, reflecting, evidencing, pertaining to,

describing, depicting, consisting of, containing, comprising, embodying, identifying, stating, discussing, analyzing, studying, summarizing, dealing with, relating to, or having any logical or factual connection whatsoever with the subject addressed, regardless whether the factual connection is favorable to or adverse to you.

9. "MPS" or "Defendant" shall refer to Monolithic Power Systems, Inc., including any affiliates, parents, subsidiaries, departments, divisions, present and former officers, directors, trustees, employees, predecessors-in-interest, agents, and/or representatives.

10. "Document" or "document" is synonymous in meaning and equal in scope to the usage of the term "documents or electronically stored information" in Rule 34(a)(1)(A) of the Federal Rules of Civil Procedure. A draft or non-identical copy is a separate document within the meaning of this term. By way of illustration, and without limitation, documents include at least the following: originals, drafts, and all non-identical copies of memoranda, reports, notes, graphs, laboratory notebooks, correspondence, interoffice communications, letters, diaries, calendars, photographs, motion pictures, sketches, drawings, promotional material, technical papers, printed publications, patents, records, reports, and all other writings, as well as all non-paper information storage means such as sound reproductions, computer inputs and outputs, tape, film and computer memory devices, as well as tangible things such as models, modules, product samples, prototypes, and commercially saleable products.

11. "The terms "identify," "identity," and "identification" shall mean, as the context shall make appropriate:

a. With respect to a person, the person's full name, present or last known address, telephone number, occupation, and employer. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person;

- b. With respect to a document, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s) and recipient(s);
- c. With respect to a telephone conversation, the full name, occupation, telephone number, and address of each party to the telephone conversation, the date of the conversation, and the subject matter discussed;
- d. With respect to an oral conversation other than a telephone conversation, the full name, occupation, telephone number, and address of each party to such conversation, the date of the conversation, and the subject matter discussed;
- e. With respect to a corporation, partnership, association, or other entity, its full name, form of organization, present or last known address, and telephone number; and
- f. With respect to any event or action, the dates or approximate dates thereof, a description of what occurred, and all persons involved.

12. “Include(s)” and “including” shall be deemed to be followed by the words “without limitation.”

13. “Person” shall refer to any natural person or any business, legal, or governmental entity or association.

14. “Thing” or “thing” shall mean any tangible item, including without limitation, models, prototypes and samples of any device or apparatus or product.

15. “You” or “Your” means Jieli Li.

16. The phrase “this Litigation” shall refer to the above-captioned action filed in the United States District Court for the District of Delaware.

#### **INSTRUCTIONS**

For the purpose of these Requests, the following instructions apply:

A. You are required not only to produce Documents in Your possession, custody, or control, but also to produce Documents that are in the possession, custody or control of anyone under Your control.

B. If Documents responsive to any Request are not or are no longer within Your possession, custody or control, state so in writing in response to the Request.

C. If you withhold any document or communication on the grounds that production is unduly burdensome or expensive, describe in writing the reasons that the production is unduly burdensome or expensive.

D. In the event that more than one copy of a Document exists, You shall produce the original and each non-identical copy of each Document or other tangible thing Requested herein which is in Your possession, custody or control.

E. If any Document is withheld based on a claim of attorney-client privilege, the work product immunity, or any other applicable privilege or immunity, identify the privilege or immunity being claimed, the data and general subject matter of the withheld communication or Document, the date of its creation or preparation, and all persons who authored, are shown as copies on the Document, or who received the Document, or who were present when the communication was made. When any privilege or immunity is claimed, indicate as to the information Requested, whether any such Documents exist.

F. You are instructed to produce Documents as they are kept in the usual course or to produce Documents organized and labeled to correspond with the categories in these Requests. In addition, a complete original or copy of each Document or thing must be produced, even though only a portion of such Document or thing is responsive to one of the numbered Requests contained herein.

G. These Requests shall be deemed continuing so as to require further and supplemental production by You whenever You acquire or discover additional information or responsive Documents between the time of the initial production hereunder and the time of trial

in this Litigation. Should You obtain any other Documents or information which would supplement or modify the Documents or information supplied by them in response to this Request, You are directed to give timely notice of such Documents and information and to furnish the additional Documents or information to MPS without delay.

H. A copy of the Protective Order entered in this Litigation is attached hereto as Attachment B. If any of the responsive documents are considered “RESTRICTED – ATTORNEYS’ EYES ONLY” material as that term is defined in Attachment B attached hereto (Protective Order), such documents or things should be produced subject to the terms and provisions of Attachment B.

### **REQUESTS FOR PRODUCTION**

#### **REQUEST NO. 1:**

All Documents relating to the design, operation, development, preparation, testing, manufacture or properties of any coupled inductor or power converter disclosed, claimed, and/or referenced, explicitly or implicitly, in the '986, '408, and '955 patents.

#### **REQUEST NO. 2:**

All Documents relating to conception or reduction to practice of the claimed subject matter of the '986, '408, and '955 patents.

#### **REQUEST NO. 3:**

All Documents relating to DC-to-DC converters and coupled inductors in existence prior to December 13, 2002.

#### **REQUEST NO. 4:**

All Documents relating to the design, operation, development, preparation, testing, manufacture, or properties of any DC-to-DC converter or coupled inductor that was sold or offered for sale prior to December 13, 2002.

#### **REQUEST NO. 5:**

All Documents relating to the design, development, preparation, testing, or manufacture, or properties of any DC-to-DC converter with two windings, where each of the windings have a magnetizing inductance that is at least three times greater than the leakage inductance of either winding.

**REQUEST NO. 6:**

All Documents relating to the '986, '408, and '955 patents.

**REQUEST NO. 7:**

All Documents relating to the preparation and/or prosecution of the applications of the '986, '408, and '955 patents.

**REQUEST NO. 8:**

All Documents identifying any Person who contributed to the design, development, preparation, testing, manufacture, or properties of any DC-to-DC converter or inductor (including samples and prototypes) disclosed and/or referenced, explicitly or implicitly, in the '986, '408, and '955 patents.

**REQUEST NO. 9:**

All Communications with any inventor of the '986 patent, '408 patent, and '955 patent (including Aaron M. Schultz, Angel Gentchev, and Charles Sullivan) or other individuals related to the conception, design, development, preparation, testing, manufacture, or properties of any of the claimed subject matter of the '986, '408, and '955 patents.

**REQUEST NO. 10:**

All Documents referring or relating to this Litigation or to MPS.

# EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

VOLTERRA SEMICONDUCTOR  
LLC,

Plaintiff,

v.

MONOLITHIC POWER SYSTEMS,  
INC.,

Defendant.

C.A. No. 19-2240-CFC

**~~PROPOSED~~ PROTECTIVE ORDER**

WHEREAS, Plaintiff Volterra Semiconductor LLC and Defendant Monolithic Power Systems, Inc., hereafter referred to as “the Parties,” believe that certain information that is or will be encompassed by discovery demands by the Parties involves the production or disclosure of trade secrets, confidential business information, or other proprietary information;

WHEREAS, the Parties seek a protective order limiting disclosure thereof in accordance with Federal Rule of Civil Procedure 26(c);

THEREFORE, it is hereby stipulated among the Parties and ORDERED that:

**DESIGNATING PROTECTED MATERIAL**

1. Each Party may designate as confidential for protection under this Order, in whole or in part, any document, information, or material that constitutes or includes, in whole or in part, confidential or proprietary information or trade secrets of the Party

or a Third Party to whom the Party reasonably believes it owes an obligation of confidentiality with respect to such document, information, or material (“Protected Material”). Protected Material shall be designated by the Party producing it by affixing a legend or stamp on such document, information, or material as follows: “RESTRICTED - ATTORNEYS’ EYES ONLY.” The designation “RESTRICTED - ATTORNEYS’ EYES ONLY” shall be placed clearly on each page of the Protected Material (except deposition and hearing transcripts) for which such protection is sought. For deposition and hearing transcripts, the designation “RESTRICTED - ATTORNEYS’ EYES ONLY” shall be placed on the cover page of the transcript (if not already present on the cover page of the transcript when received from the court reporter) by each attorney receiving a copy of the transcript after that attorney receives notice of the designation of some or all of that transcript as “RESTRICTED - ATTORNEYS’ EYES ONLY.”

2. Any document produced under Local Rule 26.2 before issuance of this Order with the designation “Confidential” or “Confidential - Outside Attorneys’ Eyes Only” shall receive the same treatment as if designated “RESTRICTED - ATTORNEYS’ EYES ONLY” under this Order, unless and until such document is redesignated to not fall under this Order.

3. With respect to documents, information, or material designated

“RESTRICTED - ATTORNEYS’ EYES ONLY,”<sup>1</sup> subject to the provisions herein and unless otherwise stated, this Order governs, without limitation: (a) all documents, electronically stored information, and/or things as defined by the Federal Rules of Civil Procedure; (b) all pretrial, hearing, or deposition testimony, or documents marked as exhibits or for identification in depositions and hearings; (c) pretrial pleadings, exhibits to pleadings, and other court filings; (d) affidavits; and (e) stipulations. All copies, reproductions, extracts, digests, and complete or partial summaries prepared from any DESIGNATED MATERIALS shall also be considered DESIGNATED MATERIAL and treated as such under this Order.

4. A designation of Protected Material (i.e., “RESTRICTED -ATTORNEYS’ EYES ONLY,”) may be made at any time. Inadvertent or unintentional production of documents, information, or material that has not been designated as DESIGNATED MATERIAL shall not be deemed a waiver in whole or in part of a claim for confidential treatment. Any party that inadvertently or unintentionally produces Protected Material without designating it as DESIGNATED MATERIAL may request destruction of that Protected Material by notifying the recipient(s), as soon as reasonably possible after the producing Party becomes aware of the inadvertent or unintentional disclosure, and providing replacement Protected

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<sup>1</sup> The term DESIGNATED MATERIAL is used throughout this Protective Order to refer to the class of materials designated as “RESTRICTED - ATTORNEYS’ EYES ONLY.”

Material that is properly designated. The recipient(s) shall then destroy all copies of the inadvertently or unintentionally produced Protected Materials and any documents, information, or material derived from or based thereon.

5. A Party shall designate documents, information, or material as “RESTRICTED - ATTORNEYS’ EYES ONLY” only upon a good faith belief that the documents, information, or material contains confidential or proprietary information or trade secrets of the Party or a Third Party to whom the Party reasonably believes it owes an obligation of confidentiality with respect to such documents, information or material.

6. The failure to designate documents, information, or material in accordance with this Order and the failure to object to a designation at a given time shall not preclude the filing of a motion at a later date seeking to impose such designation or challenging the propriety thereof. The entry of this Order and/or the production of documents, information, and material hereunder shall in no way constitute a waiver of any objection to the furnishing thereof, all such objections being hereby preserved.

7. Production of DESIGNATED MATERIAL by each of the Parties shall not be deemed a publication of the documents, information, and material (or the contents thereof) produced so as to void or make voidable whatever claim the Parties may have as to the proprietary and confidential nature of the documents, information,

or material or its contents.

### **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

8. A Party may request in writing to the other Party that the designation given to any DESIGNATED MATERIAL be modified or withdrawn. If the designating Party does not agree to redesignation within ten (10) days of receipt of the written request, the requesting Party may apply to the Court for relief. Upon any such application to the Court, the burden shall be on the designating Party to show why its classification is proper. Such application shall be treated procedurally as a motion to compel pursuant to Federal Rules of Civil Procedure 37, subject to the Rule's provisions relating to sanctions. In making such application, the requirements of the Federal Rules of Civil Procedure and the Local Rules of the Court shall be met. Pending the Court's determination of the application, the designation of the designating Party shall be maintained.

### **THIRD PARTIES**

9. To the extent that any discovery is taken of persons who are not Parties to this Action ("Third Parties") and in the event that such Third Parties contended the discovery sought involves trade secrets, confidential business information, or other proprietary information, then such Third Parties may agree to provide and produce information that will be governed by this Order based upon the Third Parties' designation.

10. To the extent that discovery or testimony is taken of Third Parties, the Third Parties may designate as “RESTRICTED - ATTORNEYS’ EYES ONLY” any documents, information, or other material, in whole or in part, produced or given by such Third Parties. The Third Parties shall have ten (10) days after production of such documents, information, or other materials to make such a designation. Until that time period lapses or until such a designation has been made, whichever occurs sooner, all documents, information, or material so produced or given shall be treated as “RESTRICTED - ATTORNEYS’ EYES ONLY” in accordance with this Order.

#### **ACCESS TO AND USE OF DESIGNATED MATERIAL**

11. There shall be no disclosure of any DESIGNATED MATERIAL by any person authorized to have access thereto to any person who is not authorized for such access under this Order. The Parties are hereby ORDERED to safeguard all such documents, information, and material to protect against disclosure to any unauthorized persons or entities.

12. “RESTRICTED - ATTORNEYS’ EYES ONLY” documents, information, and material may be disclosed only to the following persons, except upon receipt of the prior written consent of the designating party, upon order of the Court, or as set forth in paragraph 21 herein:

- (a) outside counsel of record in this Action for the Parties;
- (b) employees of such counsel assigned to and reasonably necessary to assist such counsel in the litigation of this Action;

- (c) outside consultants or experts (*i.e.*, not existing employees or affiliates of a Party) retained for the purpose of this litigation, provided that: (1) such consultants or experts are not presently employed by the Parties hereto for purposes other than this Action; and (2) before access is given, the consultant or expert has completed the Undertaking attached as Exhibit A hereto and the same is served upon the producing Party with a current curriculum vitae of the consultant or expert and a list of all litigation and engineering related consulting in the prior five (5) years at least ten (10) days before access to the Protected Material is to be given to that consultant or expert. If the Party that received the above defined notice objects in writing to disclosure of Protected Material to the consultant or expert within the ten (10) day notice period, then the consultant or expert shall not be given access to the Protected Material and the Parties agree to promptly confer and use good faith to resolve any such objection. If the Parties are unable to resolve any objection, the objecting Party may file a motion with the Court within fifteen (15) days of the notice, or within such other time as the Parties may agree, seeking a protective order with respect to the proposed disclosure. The objecting Party shall have the burden of proving the need for a protective order. No disclosure shall occur until all such objections are resolved by agreement, Court order, or expiration of the time period for the Objecting Party to file a motion, without such motion being filed after which access may be given to the consultant or expert;
- (d) employees of the outside consultants or experts who have access to DESIGNATED MATERIAL under paragraph 12(c),<sup>2</sup> provided that such employees are reasonably necessary to assist such outside consultants or experts in their work regarding this Action and are supervised by such outside consultants or experts;
- (e) independent litigation support services, including persons working for or as court reporters, graphics or design services, jury or trial consulting services,<sup>3</sup> and photocopy, document imaging, and database

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<sup>2</sup> By way of example, professional staff, including analysts, working for damages experts and their consulting firms are permitted access to DESIGNATED MATERIAL under this provision.

<sup>3</sup> To the extent reasonably necessary to conduct mock trials or focus group exercises,

“RESTRICTED - ATTORNEYS’ EYES ONLY” material may be shown to mock trial or focus group participants provided: (a) the participants are required to sign a confidentiality agreement to participate in the study; (b) the DESIGNATED MATERIAL is only displayed in presentation

services retained by counsel and reasonably necessary to assist counsel with the litigation of this Action, provided that such persons complete the Undertaking attached as Exhibit A prior to the disclosure of any DESIGNATED MATERIAL; and

(f) the Court and its personnel.

13. Documents, information, or material produced pursuant to any discovery request in this Action, including but not limited to Protected Material designated as DESIGNATED MATERIAL, shall be used by the Parties only in the litigation of this Action and shall not be used for any other purpose. Any person or entity who obtains access to DESIGNATED MATERIAL or the contents thereof pursuant to this Order shall not make any copies, duplicates, extracts, summaries, or descriptions of such DESIGNATED MATERIAL or any portion thereof except as may be reasonably necessary in the litigation of this Action. Any such copies, duplicates, extracts, summaries, or descriptions shall be classified DESIGNATED MATERIALS and subject to all of the terms and conditions of this Order.

14. Nothing contained herein shall be construed to prejudice any Party's right to use any DESIGNATED MATERIAL in taking testimony at any deposition or hearing, provided that the DESIGNATED MATERIAL is only disclosed to a person(s) who is: (i) eligible to have access to the DESIGNATED MATERIAL by

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materials by counsel and not provided in any material given to the participants as a handout; and (c) the participants are not permitted to retain any materials from the exercise, other than a copy of their confidentiality agreement and documents related to payment for their participation in the exercise.

virtue of his or her employment with the designating party; (ii) identified in the DESIGNATED MATERIAL as an author, addressee, or copy recipient of such information; (iii) although not identified as an author, addressee, or copy recipient of such DESIGNATED MATERIAL, has, in the ordinary course of business, seen such DESIGNATED MATERIAL; (iv) a current or former officer, director, or employee of the producing Party or a current or former officer, director, or employee of a company affiliated with the producing Party; (v) outside counsel for a Party; (vi) an independent contractor, consultant, and/or expert retained for the purpose of this litigation; (vii) court reporters and videographers; (viii) the Court; or (ix) other persons entitled hereunder to access to DESIGNATED MATERIAL. DESIGNATED MATERIAL shall not be disclosed to any other persons unless prior authorization is obtained from counsel representing the producing Party or from the Court.

15. Parties may, at the deposition or within thirty (30) days after receipt of a deposition transcript, designate the deposition transcript or any portion thereof as "RESTRICTED - ATTORNEY' EYES ONLY" pursuant to this Order. Access to the deposition transcript so designated shall be limited in accordance with the terms of this Order. Until expiration of the 30-day period, the entire deposition transcript shall be treated as confidential.

16. Statements made in open Court and the accompanying transcript will become

public record unless A) the party designating the material requests that the information be sealed at the hearing, and B) follows the procedures for requesting redaction set forth in The District of Delaware Policy on the Electronic Availability of Transcripts of Court Proceedings. Prior to any Court proceeding in which designated material is to be used, counsel for the party intending to use such material shall confer in good faith with the Producing Party of such material on procedures that may be necessary or advisable to protect the confidentiality of the Protected Material.

17. Each outside consultant or expert to whom DESIGNATED MATERIAL is disclosed in accordance with the terms of this Order shall be advised by counsel of the terms of this Order, shall be informed that he or she is subject to the terms and conditions of this Order, and shall sign an acknowledgment that he or she has received a copy of, has read, and has agreed to be bound by this Order. A copy of the acknowledgment form is attached as Appendix A.

#### **FILING DESIGNATED MATERIAL WITH THE COURT**

18. Any DESIGNATED MATERIAL that is filed with the Court shall be filed under seal pursuant to D. Del. LR 5.1.3 and any other applicable local rules, and shall remain under seal until further order of the Court.

#### **UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

19. Any Party knowing or believing that any other party is in violation of or

intends to violate this Order and has raised the question of violation or potential violation with the opposing party and has been unable to resolve the matter by agreement may move the Court for such relief as may be appropriate in the circumstances. Pending disposition of the motion by the Court, the Party alleged to be in violation of or intending to violate this Order shall discontinue the performance of and/or shall not undertake the further performance of any action alleged to constitute a violation of this Order.

## **PROSECUTION BAR**

20. Any attorney representing a Party, and any person associated with a Party and permitted to receive the other Party's Protected Material, who obtains, receives, has accessed, or otherwise learned, in whole or in part, the other Party's Protected Material under this Order shall not prepare, prosecute, supervise, or assist in the preparation or prosecution of any patent application or patent amendments pertaining to the field of the invention of the patents-in-suit on behalf of the receiving Party or its acquirer, successor, predecessor, or other affiliate during the pendency of this Action and for one year after its conclusion, including any appeals. Nothing in this paragraph shall preclude anyone from fully participating in any post-grant review proceedings (including *Inter Partes* Review, Post-Grant Proceedings, or reexamination proceedings, or any such post-grant-related foreign proceeding), excluding any claim drafting or claim amendment activity that may be part of any

such proceedings.

**PRIVILEGED OR OTHERWISE PROTECTED MATERIAL**

21. Nothing in this Order shall require production of documents, information, or other material that a Party contends is protected from disclosure by the attorney-client privilege, the work product doctrine, or other privilege, doctrine, or immunity. If documents, information, or other material subject to a claim of attorney-client privilege, work product doctrine, or other privilege, doctrine, or immunity is inadvertently or unintentionally produced, such production shall in no way prejudice or otherwise constitute a waiver of, or estoppel as to, any such privilege, doctrine, or immunity. Any Party that inadvertently or unintentionally produces documents, information, or other material it reasonably believes are protected under the attorney-client privilege, work product doctrine, or other privilege, doctrine, or immunity may obtain the return of such documents, information, or other material by promptly notifying the recipient(s) and providing a privilege log for the inadvertently or unintentionally produced documents, information, or other material. The recipient(s) shall gather and return all copies of such documents, information, or other material to the producing Party, except for any pages containing privileged or otherwise protected markings by the recipient(s), which pages shall instead be destroyed and certified as such to the producing Party.

## **OTHER PROCEEDINGS**

22. By entering this Order and limiting the disclosure of information in this case, the Court does not intend to preclude another court from finding that information may be relevant and subject to disclosure in another case. Any person or party subject to this Order who becomes subject to a motion to disclose another party's information designated as confidential pursuant to this Order shall promptly notify that party of the motion so that the party may have an opportunity to appear and be heard on whether that information should be disclosed.

## **FINAL DISPOSITION**

23. Within thirty (30) days of final termination of this Action, including any appeals, all DESIGNATED MATERIAL, including all copies, duplicates, abstracts, indexes, summaries, descriptions, and excerpts or extracts thereof (excluding excerpts or extracts incorporated into any privileged memoranda of the Parties and materials which have been admitted into evidence in this Action), shall at the producing Party's election either be returned to the producing Party or be destroyed. The receiving Party shall verify the return or destruction by affidavit furnished to the producing Party, upon the producing Party's request.

## MISCELLANEOUS

24. The Order applies to pretrial discovery. Nothing in this Order shall be deemed to prevent the Parties from introducing any DESIGNATED MATERIAL

into evidence at the trial of this Action, or from using any information contained in DESIGNATED MATERIAL at the trial of this Action, subject to any pretrial order issued by this Court.

25. Nothing in this Order shall be construed to effect an abrogation, waiver, or limitation of any kind on the rights of each of the Parties to assert any applicable discovery or trial privilege.

26. Each of the Parties shall also retain the right to file a motion with the Court (a) to modify this Order to allow disclosure of DESIGNATED MATERIAL to additional persons or entities if reasonably necessary to prepare and present this Action and (b) to apply for additional protection of DESIGNATED MATERIAL.

Date: October 1, 2020

FISH & RICHARDSON P.C.

/s/ Robert M. Oakes

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Attorneys for Plaintiff

SO ORDERED, this 2<sup>nd</sup> day of October 2020.

SHAW KELLER LLP

/s/ Nathan R. Hoeschen

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Attorneys for Defendant

  
John F. Coughlin  
United States District Judge

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

VOLTERRA SEMICONDUCTOR  
LLC,

Plaintiff,

v.

MONOLITHIC POWER SYSTEMS,  
INC.,

Defendant.

C.A. No. 19-2240-CFC

**APPENDIX A  
UNDERTAKING OF EXPERTS OR CONSULTANTS REGARDING  
PROTECTIVE ORDER**

I, \_\_\_\_\_, declare that:

1. My address is \_\_\_\_\_.  
My current employer is \_\_\_\_\_.

My current occupation is \_\_\_\_\_.

2. I have received a copy of the Protective Order in this action. I have carefully read and understand the provisions of the Protective Order.
3. I will comply with all of the provisions of the Protective Order. I will hold in confidence, will not disclose to anyone not qualified under the Protective Order, and will use only for purposes of this action any information

designated as "RESTRICTED - ATTORNEYS' EYES ONLY."

4. Promptly upon termination of these actions, I will return all documents and things designated as "RESTRICTED - ATTORNEYS' EYES ONLY" that came into my possession, and all documents and things that I have prepared relating thereto, to the outside counsel for the party by whom I am employed.
5. I hereby submit to the jurisdiction of this Court for the purpose of enforcement of the Protective Order in this action.

I declare under penalty of perjury that the foregoing is true and correct.

Signature \_\_\_\_\_

Date \_\_\_\_\_